

REMARKS

The Applicant respectfully requests that the Examiner considers the amendments and remarks outlined herein, and allow the claims currently pending in this application.

- 5 The Applicant thanks the Examiner for his allowance of the subject matter of Claims 2-5, 8, 9, 11-15 18, 19, and 21-25.

Claim Amendments

Claim 1 has been amended to clarify what the Applicant regards as his invention
10 and to correct typographical errors. The scope of Claim 1 remains unchanged.

Claim 10 has been amended to recite “computerized” before the term “method” in the preamble to clarify that the method is computerized. The scope of Claim 10 remains unchanged.

Claims 11-15 and 17 have been amended to reflect the change in the preamble of
15 Claim 10. The scope of each of Claims 11-15 and 17 remains unchanged.

Claim 16 has been amended to reflect the change in the preamble of Claim 10 and to correct a typographical error. The scope of Claim 16 remains unchanged.

Claims 18 and 19 have been amended to reflect the change in the preamble of
Claim 10 and to correct a typographical error. The scope of each of Claims 18 and 19
20 remains unchanged.

Claim 20 has been amended to recite “computerized” before the term “method” in the preamble to clarify that the method is computerized. The scope of Claim 20 remains unchanged.

Claims 21-25 have been amended to reflect the change in the preamble of Claim
25 20. The scope of each of Claims 21-25 remains unchanged.

Claims 26-28 have been amended to reflect the change in the preamble of Claim 20 and to correct typographical errors. The scope of each of Claims 26-28 remains unchanged.

Claim Objections

In section 2 of the Office Action, the Examiner pointed out several objections to the currently pending claims.

The Examiner objected to Claim 1 at line 14, wherein the Examiner stated that the 5 “25” should be “c.” The Applicant thanks the Examiner for pointing out this typographical error and has amended Claim 1 to correct this typographical error.

The Examiner objected to Claim 16 at line 3, wherein the Examiner stated that the term “app” is unknown. The Applicant thanks the Examiner and has amended Claim 16 to remove the term “app” and replaced it with the term “classifier system.” This 10 amendment is made to correct a typographical error in Claim 16.

The Examiner objected to Claim 27 at line 1, wherein the Examiner stated that the word “An” should be replaced by “A.” The Applicant thanks the Examiner and has amended Claim 27 to correct this typographical error. Similar typographical errors were also corrected in Claims 18 and 19.

15 In section 3 of the Office Action, the Examiner stated that Claims 7, 17 and 26 lack compliance with 35 USC 112, fourth paragraph in that these claims fail to additionally limit the subject matter of the related independent claim and therefore the Examiner rejected these claims under 37 CFR 1.75(c). The Examiner stated that by definition the system state is always a vector. The Applicant respectfully disagrees.

20 The first partial paragraph on page 19 of the present application states, “Note that representing the problem as a vector is appropriate only when the test costs are not affected by which other tests have already been performed.” Thus, it is not true that the system state is always a vector as asserted by the Examiner. Therefore, the Applicant submits that Claims 7, 17, and 26 are in compliance with 35 USC fourth paragraph as 25 they additionally limit the subject matter of the related independent claim. If the Examiner still maintains his objection to these claims, the Applicant respectfully requests that the Examiner point out to the Applicant his basis for his interpretation that, by definition, the system state is always a vector.

Claim Rejections – 35 USC §112 second paragraph**Claims 1 and 20**

In section 5 of the Office Action, the Examiner rejected Claims 1 and 20 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Examiner stated that the term “mimic” is used which is a relative term and renders the invention indefinite. The Applicant respectfully disagrees.

The present application, page 16, lines 15-17 states “Although the explicit system 202 uses a combinatorial process to determine the best test or tests to run, over time the implicit system 206 learns to mimic the performance of the explicit system 202.” The Applicant is unclear why the Examiner has asserted that the term “mimic” is relative. The Applicant respectfully requests that if the Examiner continues this rejection of Claims 1 and 20 based on the term “mimic” that the Examiner explain why he believes the term is relative. Because the term “mimic” is used in a definable context in the present application, the Applicant submits that one skilled in the art would understand what the term “mimic” means and thus, the term “mimic” is not indefinite. Therefore, the Applicant respectfully requests that the Examiner withdraw this rejection of Claims 1 and 20.

20 Claims 6 and 16

In section 6 of the Office Action, the Examiner rejected Claims 6 and 16 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Examiner stated that the term “sufficiently mimics” is used which is a relative term and renders the claim indefinite. The Applicant disagrees for the same reasons given above with reference to Claims 1 and 20. Therefore, the Applicant respectfully requests that the Examiner withdraw this rejection of Claims 6 and 16.

Claim 10

30 In section 7 of the Office Action, the Examiner rejected Claim 10 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and

distinctly claim the subject matter which the Applicant regards as the invention. The Examiner stated that the use of the preposition “on” is confusing and it is really the classifier that is evaluating the test. The Examiner suggested that perhaps the word “by” could be used as a replacement. The Applicant thanks the Examiner for his suggestion,
5 but respectfully disagrees.

The last paragraph on page 15 of the present application states, “The explicit system 202 runs virtual or hypothetical tests on the classifier 200, which, in essence, acts as a model of the world in which the system operates.” Thus, as disclosed in the present application, the tests are preformed on the classifier. The Applicant submits that the use
10 of the preposition “on” is appropriate in this case. Therefore, the Applicant respectfully requests that the Examiner withdraw this rejection to Claim 10.

Claims 26, 27 and 28

In section 8 of the Office Action, the Examiner rejected Claims 26, 27 and 28
15 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Examiner stated that each claim uses the preposition “into” suggesting that something is being inserted as opposed to the intention of referencing that which is being done internally. The Examiner suggested that perhaps the word “in” could be used as a
20 replacement. The Applicant thanks the Examiner for his suggestion, and has amended Claims 26, 27 and 28 as suggested.

Claim Rejections – 35 USC §112, first paragraph

Claim 1

25 In section 10 of the Office Action, the Examiner rejected Claim 1 under 35 USC 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the Examiner stated that Claim 1, lines 3-5, indicates that the explicit system and the
30 classifier operate iteratively to perform a combinatory search. The Examiner stated that the specification teaches in the detailed description at page 15, lines 10-11, that it is the

explicit system alone that performs a combinatory search procedure, which, of course is iterative. Further, the Examiner stated, the profit module does not unto itself operate iteratively as stated in Claim 1, line 12, since as stated on page 15, lines 13-14 of the specification, “the profit module 204 provides a value of information framework, which 5 tempers the output of the classifier 200 with subjective values.” The Applicant has amended claim 1 to clarify what the Applicant claims as the invention. The Applicant submits that these amendments, which include punctuation, overcome the Examiner rejection. Thus, the Applicant submits that the Claim 1 is now in order for allowance.

10 **Claim Rejections – 35 USC §101**

In section 12 of the Office Action, the Examiner rejected Claims 10 and 20 under 35 USC §101 because the claimed invention lacks patentable utility. Specifically, the Examiner stated that Claims 10 and 20 represent abstract methodology and therefore are intangible. The Applicants have amended Claims 10 and 20 to recite the term 15 “computerized” before the term “method.” The Examiner has not rejected the apparatus claims for utility, and thus, the Applicant submits that making the method a “computerized” method brings the method out of the abstract and into the concrete. Thus, the Applicant submits that Claims 10 and 20 are now in order for allowance.

Concluding Remarks:

In view of the foregoing, it is respectfully submitted that all now pending claims 1-28 are in allowable condition. Reconsideration is respectfully requested. Accordingly, early allowance and issuance of this application is respectfully requested. Should the
5 Examiner have any questions regarding this response or need any additional information, please contact the undersigned at (310) 589-8158.

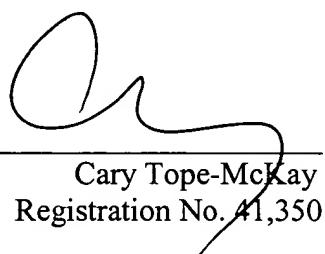
The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 50-2691. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as
10 including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 50-2691.

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Respectfully submitted,

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Date


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